

N.D.A.G. Letter to Lange (Dec. 15, 1988)

December 15, 1988

Mr. Gregory L. Lange
Attorney at Law
P.O. Box 488
Hazen, ND 58545

RE: SWC Project #1404

Dear Mr. Lange:

Thank you for your December 5, 1988, letter inquiring on behalf of the Mercer County Water Resource District as to whether the water resource district may cost share in a project sponsored by the Hazen Community Development program.

The money, according to the November 2, 1988, letter from Harvey Huber of the Hazen Community Development Program, would be spent for "seed, fertilizer and chemical." There is no statutory authority, however, for a water resource district to expend money on these items.

You also inquire whether the water resource district may cost share in the development of irrigation projects. N.D.C.C. § 61-16.1-09(20) authorizes a water resource board to "[d]evelop water supply systems, store and transport water, and provide, contract for, and furnish water service for . . . irrigation . . . and fix the terms and rates therefor. . . ." (Emphasis supplied.)

Unfortunately, the factual situation you and Mr. Huber describe involves existing irrigation systems, not the development of those systems. Further, the statute contemplates reimbursement for the development of the water system rather than an outright grant.

Based upon these facts, it is my opinion that because the irrigation system is already developed and the proposed development is of a crop, not the water supply, the water resource district is not authorized to participate in the manner proposed.

Sincerely,

Nicholas J. Spaeth

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